

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 259

Introduced by Utter, 33.

Read first time January 14, 2009

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to deposit and investment of public funds;
2 to amend sections 2-4214, 14-556, 15-847, 15-849, 16-713,
3 16-715, 17-607, 17-720, 77-2305, 77-2318, 77-2326.04,
4 77-2340, 77-2344, 77-2345, 77-2352, 77-2355, 77-2362,
5 77-2375, 77-2385, 77-2388, 77-2389, 77-2395, 77-2398,
6 77-23,100, 77-23,101, 77-23,102, and 77-23,105, Reissue
7 Revised Statutes of Nebraska, and sections 77-2365.02 and
8 77-2387, Revised Statutes Cumulative Supplement, 2008; to
9 clarify Federal Deposit Insurance Corporation coverage;
10 to harmonize provisions; to provide a duty for the
11 Revisor of Statutes; to repeal the original sections; and
12 to declare an emergency.

13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-4214, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-4214 The corporation shall have the following duties:

4 (1) To invest any funds not needed for immediate
5 disbursement, including any funds held in reserve, in direct and
6 general obligations of or obligations fully and unconditionally
7 guaranteed by the United States of America; obligations issued
8 by agencies of the United States of America; obligations of
9 this state or of any political subdivision except obligations
10 of sanitary and improvement districts organized under Chapter
11 31, article 7; certificates of deposit of banks whose deposits
12 are insured or guaranteed by the Federal Deposit Insurance
13 Corporation or collateralized by deposit of securities with
14 the secretary-treasurer of the corporation, as, and to the
15 extent not covered by insurance or guarantee, with securities
16 which are eligible for securing the deposits of the state or
17 counties, school districts, cities, or villages of the state;
18 certificates of deposit of capital stock financial institutions as
19 provided by section 77-2366; certificates of deposit of qualifying
20 mutual financial institutions as provided by section 77-2365.01;
21 repurchase agreements which are fully secured by any of such
22 securities or obligations which may be unsecured and unrated,
23 including investment agreements, of any corporation, national bank,
24 capital stock financial institution, qualifying mutual financial
25 institution, bankholding company, insurance company, or trust

1 company which has outstanding debt obligations which are rated
2 by a nationally recognized rating agency in one of the three
3 highest rating categories established by such rating agency; or any
4 obligations or securities which may from time to time be legally
5 purchased by governmental subdivisions of this state pursuant to
6 subsection (1) of section 77-2341;

7 (2) To collect fees and charges the corporation
8 determines to be reasonable in connection with its loans, advances,
9 insurance commitments, and servicing;

10 (3) To cooperate with and exchange services, personnel,
11 and information with any federal, state, or local governmental
12 agencies;

13 (4) To sell, assign, or otherwise dispose of at public or
14 private sale, with or without public bidding, any mortgage or other
15 obligations held by the corporation; and

16 (5) To do any act necessary or convenient to the exercise
17 of the powers granted by the Conservation Corporation Act or
18 reasonably implied from it.

19 Sec. 2. Section 14-556, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 14-556 (1) The city treasurer shall place all funds of
22 the city, as the same accrue, on deposit in such banks, capital
23 stock financial institutions, or qualifying mutual financial
24 institutions within the city as shall agree to pay the highest
25 rate of interest for the use of such funds so deposited. The city

1 council is hereby directed to advertise for bids for rates for the
2 deposit of such funds as is hereby contemplated.

3 (2) The banks, capital stock financial institutions, or
4 qualifying mutual financial institutions referred to in subsection
5 (1) of this section, so selected, shall:

6 (a) Give bond to the city for the safekeeping of such
7 funds, and such city shall not have on deposit in any bank,
8 capital stock financial institution, or qualifying mutual financial
9 institution giving a guaranty bond more than the amount insured
10 or guaranteed by the Federal Deposit Insurance Corporation plus
11 the maximum amount of the bond given by the bank, capital stock
12 financial institution, or qualifying mutual financial institution
13 or in any bank, capital stock financial institution, or qualifying
14 mutual financial institution giving a personal bond more than
15 the amount insured or guaranteed by the Federal Deposit Insurance
16 Corporation plus one-half of the amount of the bond of the bank,
17 capital stock financial institution, or qualifying mutual financial
18 institution. All bonds of such banks, capital stock financial
19 institutions, or qualifying mutual financial institutions shall be
20 deposited with and held by the city treasurer; or

21 (b) Give security as provided in the Public Funds Deposit
22 Security Act.

23 (3) The fact that a stockholder, director, or other
24 officer of such bank, capital stock financial institution, or
25 qualifying mutual financial institution is also serving as mayor,

1 as a member of the city council, as a member of a board of
2 public works, or as any other officer of such municipality shall
3 not disqualify such bank, capital stock financial institution, or
4 qualifying mutual financial institution from acting as a depository
5 for such municipal funds.

6 (4) Section 77-2366 shall apply to deposits in capital
7 stock financial institutions.

8 (5) Section 77-2365.01 shall apply to deposits in
9 qualifying mutual financial institutions.

10 Sec. 3. Section 15-847, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 15-847 In lieu of the bond required by section 15-846,
13 any bank, capital stock financial institution, or qualifying mutual
14 financial institution making application to become a depository may
15 give security as provided in the Public Funds Deposit Security
16 Act to the city treasurer. The penal sum of such bond or the
17 sum of such security may be reduced in the amount of such
18 deposit insured or guaranteed by the Federal Deposit Insurance
19 Corporation. Section 77-2366 shall apply to deposits in capital
20 stock financial institutions. Section 77-2365.01 shall apply to
21 deposits in qualifying mutual financial institutions.

22 Sec. 4. Section 15-849, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 15-849 The city treasurer may purchase certificates of
25 deposit from and make time deposits in banks, capital stock

1 financial institutions, or qualifying mutual financial institutions
2 selected as depositories of city funds pursuant to sections 15-846
3 to 15-848. The certificates of deposit purchased and time deposits
4 made shall bear interest and shall be secured as prescribed in such
5 sections. The penal sum of such bond or the sum of such security
6 shall be reduced in the amount of the time deposit or certificate
7 of deposit insured or guaranteed by the Federal Deposit Insurance
8 Corporation. Section 77-2366 shall apply to deposits in capital
9 stock financial institutions. Section 77-2365.01 shall apply to
10 deposits in qualifying mutual financial institutions.

11 Sec. 5. Section 16-713, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 16-713 The city treasurer may, upon resolution of the
14 mayor and council authorizing the same, purchase certificates
15 of deposit from and make time deposits in banks, capital stock
16 financial institutions, or qualifying mutual financial institutions
17 selected as depositories of city funds under the provisions of
18 sections 16-712, 16-714, and 16-715. The certificates of deposit
19 purchased and time deposits made shall bear interest and shall be
20 secured as set forth in sections 16-714 and 16-715, except that
21 the penal sum of such bond or the sum of such security shall
22 be reduced in the amount of the time deposit or certificate of
23 deposit insured or guaranteed by the Federal Deposit Insurance
24 Corporation. Section 77-2366 shall apply to deposits in capital
25 stock financial institutions. Section 77-2365.01 shall apply to

1 deposits in qualifying mutual financial institutions.

2 Sec. 6. Section 16-715, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 16-715 In lieu of the bond required by section 16-714,
5 any bank, capital stock financial institution, or qualifying mutual
6 financial institution making application to become a depository may
7 give security as provided in the Public Funds Deposit Security Act
8 to the city clerk. The penal sum of such bond shall be equal to or
9 greater than the amount of the deposit in excess of that portion of
10 such deposit insured or guaranteed by the Federal Deposit Insurance
11 Corporation. Section 77-2366 shall apply to deposits in capital
12 stock financial institutions. Section 77-2365.01 shall apply to
13 deposits in qualifying mutual financial institutions.

14 Sec. 7. Section 17-607, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 17-607 (1) The treasurer of a city of the second class
17 or village shall deposit, and at all times keep on deposit,
18 for safekeeping, in banks, capital stock financial institutions,
19 or qualifying mutual financial institutions of approved and
20 responsible standing, all money collected, received, or held by
21 him or her as city or village treasurer. Such deposits shall
22 be subject to all regulations imposed by law or adopted by the
23 city council or board of trustees for the receiving and holding
24 thereof. The fact that a stockholder, director, or other officer
25 of such bank, capital stock financial institution, or qualifying

1 mutual financial institution is also serving as mayor, as a member
2 of the city council, as a member of the board of trustees, as a
3 member of a board of public works, or as any other officer of
4 such municipality shall not disqualify such bank, capital stock
5 financial institution, or qualifying mutual financial institution
6 from acting as a depository for such municipal funds. Section
7 77-2366 shall apply to deposits in capital stock financial
8 institutions. Section 77-2365.01 shall apply to deposits in
9 qualifying mutual financial institutions.

10 (2) The council or board of trustees shall require from
11 all banks, capital stock financial institutions, or qualifying
12 mutual financial institutions (a) a bond in such penal sum as
13 may be the maximum amount on deposit at any time less the amount
14 insured or guaranteed by the Federal Deposit Insurance Corporation
15 or, in lieu thereof, (b) security given as provided in the Public
16 Funds Deposit Security Act, to secure the payment of all such
17 deposits and accretions. The council or board shall approve such
18 bond or giving of security. The city treasurer or village treasurer
19 shall not be liable for any loss of any money sustained by reason
20 of the failure of any such depository so designated and approved.

21 Sec. 8. Section 17-720, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 17-720 The city or village treasurer of cities of the
24 second class and villages may, upon resolution of the mayor
25 and council or board of trustees authorizing the same, purchase

1 certificates of deposit from and make time deposits in any bank,
2 capital stock financial institution, or qualifying mutual financial
3 institution in the State of Nebraska to the extent that such
4 certificates of deposit or time deposits are insured or guaranteed
5 by the Federal Deposit Insurance Corporation. Deposits may be made
6 in excess of the amounts so secured by the corporation, and the
7 amount of the excess deposit shall be secured by a bond or by
8 security given in the same manner as is provided for cities of the
9 first class in sections 16-714 to 16-716 as of the time the deposit
10 is made. Section 77-2366 shall apply to deposits in capital stock
11 financial institutions. Section 77-2365.01 shall apply to deposits
12 in qualifying mutual financial institutions.

13 Sec. 9. Section 77-2305, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2305 The State Treasurer shall not have on deposit in
16 any bank giving a guaranty bond more than the amount insured or
17 guaranteed by the Federal Deposit Insurance Corporation plus the
18 maximum amount of the bond given by the bank, nor any bank giving
19 a personal bond more than the amount insured or guaranteed by the
20 Federal Deposit Insurance Corporation, plus one-half of the amount
21 of the bond of the bank. The amount deposited in any bank shall
22 not exceed the amount insured or guaranteed by the Federal Deposit
23 Insurance Corporation plus twice its capital stock and surplus,
24 but no bonds or giving of security shall be required for funds
25 over which the state investment officer has investment jurisdiction

1 except those funds which are eligible for long-term investment. All
2 bonds of such depositories shall be deposited with and held by the
3 State Treasurer.

4 Sec. 10. Section 77-2318, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-2318 The county treasurer shall not have on deposit
7 in any bank, capital stock financial institution, or qualifying
8 mutual financial institution at any time more money than the
9 amount insured or guaranteed by the Federal Deposit Insurance
10 Corporation, plus the maximum amount of the bond given by such
11 bank, capital stock financial institution, or qualifying mutual
12 financial institution in cases when the bank, capital stock
13 financial institution, or qualifying mutual financial institution
14 gives a guaranty bond except as provided in section 77-2318.01.
15 The amount on deposit at any time with any bank, capital stock
16 financial institution, or qualifying mutual financial institution
17 shall not exceed fifty percent of the capital and surplus of such
18 bank, capital stock financial institution, or qualifying mutual
19 financial institution except as provided in section 77-2318.01.
20 When the amount of money which the county treasurer desires
21 to deposit in the banks, capital stock financial institutions,
22 and qualifying mutual financial institutions within the county
23 exceeds fifty percent of the capital and surplus of all of the
24 banks, capital stock financial institutions, and qualifying mutual
25 financial institutions in such county, then the county treasurer

1 may, with the consent of the county board, deposit an amount in
2 excess thereof, but not exceeding the capital stock and surplus in
3 any one bank, capital stock financial institution, or qualifying
4 mutual financial institution unless the depository gives security
5 as provided in section 77-2318.01. Bond shall be required of all
6 banks, capital stock financial institutions, and qualifying mutual
7 financial institutions for such excess deposit unless security
8 is given in accordance with section 77-2318.01. The bonds shall
9 be deposited with the county clerk and approved by the county
10 board. Section 77-2366 shall apply to deposits in capital stock
11 financial institutions. Section 77-2365.01 shall apply to deposits
12 in qualifying mutual financial institutions.

13 Sec. 11. Section 77-2326.04, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2326.04 No deposits in excess of the amount insured or
16 guaranteed by the Federal Deposit Insurance Corporation shall
17 be made to accumulate in any bank, capital stock financial
18 institution, or qualifying mutual financial institution designated
19 as a depository unless and until the county judge, clerk of the
20 county court, or clerk of the district court, as the case may
21 be, has received from such depository as security for the prompt
22 repayment by the depository of his or her respective deposits
23 in excess of the amount insured or guaranteed by the Federal
24 Deposit Insurance Corporation either a surety bond in form and with
25 corporate sureties approved by the county judge or judges or by

1 formal resolution of the county board, as the case may be, or in
2 lieu thereof, the giving of security as provided in the Public
3 Funds Deposit Security Act. Section 77-2366 shall apply to deposits
4 in capital stock financial institutions. Section 77-2365.01 shall
5 apply to deposits in qualifying mutual financial institutions.

6 Sec. 12. Section 77-2340, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2340 The county treasurers of the various counties of
9 the state may, upon resolution of their respective county boards
10 authorizing the same, make time deposits in banks, capital stock
11 financial institutions, or qualifying mutual financial institutions
12 selected as depositories of county funds under the provisions of
13 sections 77-2312 to 77-2315. The time deposits shall bear interest
14 and shall be secured as set forth in section 77-2304 or 77-2320,
15 except that the amount insured or guaranteed by the Federal Deposit
16 Insurance Corporation shall be exempt from the requirement of being
17 secured as provided by section 77-2320 or by bonds similar to the
18 bond required and set forth in section 77-2304. Section 77-2366
19 shall apply to deposits in capital stock financial institutions.
20 Section 77-2365.01 shall apply to deposits in qualifying mutual
21 financial institutions.

22 Sec. 13. Section 77-2344, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-2344 No deposit in excess of the amount insured or
25 guaranteed by the Federal Deposit Insurance Corporation shall

1 be made in any bank, capital stock financial institution, or
2 qualifying mutual financial institution designated as a depository
3 unless and until the metropolitan utilities district has received
4 from such depository as security for the prompt repayment by
5 the depository either a corporate surety bond in form and with
6 sureties approved by formal resolution by the governing body of
7 such district or the giving of security as provided in the Public
8 Funds Deposit Security Act. Section 77-2366 shall apply to deposits
9 in capital stock financial institutions. Section 77-2365.01 shall
10 apply to deposits in qualifying mutual financial institutions.

11 Sec. 14. Section 77-2345, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-2345 No deposit shall be made in any designated bank,
14 capital stock financial institution, or qualifying mutual financial
15 institution (1) in excess of the amount insured or guaranteed by
16 the Federal Deposit Insurance Corporation or (2) in excess of
17 the obligation of the depository bond at the time any deposit of
18 funds is made or during the period in which the deposit of funds
19 remains in the depository. Section 77-2366 shall apply to deposits
20 in capital stock financial institutions. Section 77-2365.01 shall
21 apply to deposits in qualifying mutual financial institutions.

22 Sec. 15. Section 77-2352, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-2352 No deposit in excess of the amount insured or
25 guaranteed by the Federal Deposit Insurance Corporation shall

1 be made in any bank, capital stock financial institution, or
2 qualifying mutual financial institution designated as a depository
3 unless and until the treasurer or ex officio treasurer has received
4 from the depository as security for the prompt repayment by
5 the depository either a corporate surety bond in form and with
6 sureties approved by formal resolution by the governing body of
7 such district or the giving of security as provided in the Public
8 Funds Deposit Security Act. Section 77-2366 shall apply to deposits
9 in capital stock financial institutions. Section 77-2365.01 shall
10 apply to deposits in qualifying mutual financial institutions.

11 Sec. 16. Section 77-2355, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-2355 No deposits in excess of the amount insured
14 or guaranteed by the Federal Deposit Insurance Corporation shall
15 be made or be allowed to accumulate in any bank, capital stock
16 financial institution, or qualifying mutual financial institution
17 designated as a depository unless and until the treasurer or other
18 competent officer of the district has received from such depository
19 as security for the prompt repayment of such deposits by the
20 depository either a surety bond in form and with corporate sureties
21 approved by formal resolution of the board of directors of such
22 district or, in lieu thereof, the giving of security as provided
23 in the Public Funds Deposit Security Act. Section 77-2366 shall
24 apply to deposits in capital stock financial institutions. Section
25 77-2365.01 shall apply to deposits in qualifying mutual financial

1 institutions.

2 Sec. 17. Section 77-2362, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-2362 Whenever, by the laws of this state, any
5 municipal corporation or other governmental subdivision of the
6 state is authorized or required to obtain or accept from
7 banks, capital stock financial institutions, or qualifying mutual
8 financial institutions surety bonds or other bonds as security for
9 deposits of public funds belonging to such municipal corporation or
10 other governmental subdivision, the insurance or guarantee afforded
11 to depositors in banks, capital stock financial institutions,
12 or qualifying mutual financial institutions through the Federal
13 Deposit Insurance Corporation, organized under the laws of the
14 United States, shall be deemed and construed to be, for the
15 purposes of such laws, a surety bond or bonds to the extent that
16 such deposits are insured or guaranteed by such corporation, and
17 for deposits so insured or guaranteed, no other surety bond or
18 bonds or other security shall be required. Section 77-2366 shall
19 apply to deposits in capital stock financial institutions. Section
20 77-2365.01 shall apply to deposits in qualifying mutual financial
21 institutions.

22 Sec. 18. Section 77-2365.02, Revised Statutes Cumulative
23 Supplement, 2008, is amended to read:

24 77-2365.02 Notwithstanding any other provision of law,
25 to the extent that the funds of this state or any political

1 subdivision of this state may be invested, by the appropriate
2 custodian of such funds, in certificates of deposit or time
3 deposits with banks, capital stock financial institutions, or
4 qualifying mutual financial institutions, such authorization shall
5 include the investment of funds in certificates of deposit and time
6 deposits in accordance with the following conditions:

7 (1) The bank, capital stock financial institution, or
8 qualifying mutual financial institution in this state through which
9 the investment of funds is initially made arranges for the deposit
10 of a portion or all of such funds in one or more certificates of
11 deposit or time deposits with other banks, capital stock financial
12 institutions, or qualifying mutual financial institutions located
13 in the United States;

14 (2) Each such certificate of deposit or time deposit
15 is fully insured or guaranteed by the Federal Deposit Insurance
16 Corporation;

17 (3) The bank, capital stock financial institution,
18 or qualifying mutual financial institution through which the
19 investment of funds was initially made acts as a custodian for the
20 state or political subdivision with respect to any such certificate
21 of deposit or time deposit issued for the account of the state or
22 political subdivision; and

23 (4) At the same time that the funds are deposited into
24 and such certificates of deposit or time deposits are issued by
25 other banks, capital stock financial institutions, or qualifying

1 mutual financial institutions, the bank, capital stock financial
2 institution, or qualifying mutual financial institution through
3 which the investment of funds in certificates of deposit or time
4 deposits was initially made receives an amount of deposits from
5 customers of other banks, capital stock financial institutions,
6 or qualifying mutual financial institutions located in the United
7 States which is equal to or greater than the amount of the
8 investment of funds in certificates of deposit or time deposits
9 initially made by the state or political subdivision.

10 Sec. 19. Section 77-2375, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-2375 The secretary-treasurer shall not have on deposit
13 in any bank, capital stock financial institution, or qualifying
14 mutual financial institution at any time more money than the
15 amount insured or guaranteed by the Federal Deposit Insurance
16 Corporation, plus the maximum amount of the bond given by such
17 bank, capital stock financial institution, or qualifying mutual
18 financial institution in cases when the bank, capital stock
19 financial institution, or qualifying mutual financial institution
20 gives a guaranty bond, except as provided in section 77-2376.
21 The amount on deposit at any time with any bank, capital stock
22 financial institution, or qualifying mutual financial institution
23 shall not exceed fifty percent of the capital and surplus of such
24 bank, capital stock financial institution, or qualifying mutual
25 financial institution, except as provided in section 77-2376.

1 When the amount of money which the secretary-treasurer desires
2 to deposit in the banks, capital stock financial institutions,
3 or qualifying mutual financial institutions within the district
4 exceeds fifty percent of the capital and surplus of all of
5 the banks, capital stock financial institutions, or qualifying
6 mutual financial institutions in such local hospital district,
7 the secretary-treasurer may, with the consent of the board of
8 directors, deposit an amount in excess thereof, but not exceeding
9 the capital and surplus in any one bank, capital stock financial
10 institution, or qualifying mutual financial institution, unless
11 the depository gives security as provided in section 77-2376.
12 Bond shall be required of all banks, capital stock financial
13 institutions, or qualifying mutual financial institutions for such
14 excess deposit, unless security is given in accordance with section
15 77-2376. The bonds shall be deposited with the secretary-treasurer
16 and approved by the board of directors. Section 77-2366 shall
17 apply to deposits in capital stock financial institutions. Section
18 77-2365.01 shall apply to deposits in qualifying mutual financial
19 institutions.

20 Sec. 20. Section 77-2385, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-2385 The secretary-treasurers of the various local
23 hospital districts of the state may, upon resolution of their
24 respective boards of directors authorizing such action, make
25 time deposits in banks, capital stock financial institutions, or

1 qualifying mutual financial institutions selected as depositories
2 of the local hospital district funds under sections 77-2369 to
3 77-2372. The time deposits shall bear interest and shall be secured
4 as set forth in section 77-2304 or 77-2378, except that the amount
5 insured or guaranteed by the Federal Deposit Insurance Corporation
6 shall be exempt from the requirement of being secured as provided
7 by section 77-2378 or by bonds similar to the bond required and set
8 forth in section 77-2304. Section 77-2366 shall apply to deposits
9 in capital stock financial institutions. Section 77-2365.01 shall
10 apply to deposits in qualifying mutual financial institutions.

11 Sec. 21. For purposes of any law requiring a bank,
12 capital stock financial institution as defined under section
13 77-2366, or qualifying mutual financial institution as defined
14 under section 77-2365.01, to secure the deposit of public money or
15 public funds in excess of the amount insured by the Federal Deposit
16 Insurance Corporation, references to amounts insured by the Federal
17 Deposit Insurance Corporation shall include amounts guaranteed by
18 the Federal Deposit Insurance Corporation.

19 Sec. 22. Section 77-2387, Revised Statutes Cumulative
20 Supplement, 2008, is amended to read:

21 77-2387 For purposes of the Public Funds Deposit Security
22 Act, unless the context otherwise requires:

23 (1) Affiliate means any entity that controls, is
24 controlled by, or is under common control with another entity;

25 (2) Bank means any state-chartered or federally chartered

1 bank which has a main chartered office in this state, any
2 branch thereof in this state, or any branch in this state of
3 a state-chartered or federally chartered bank which maintained a
4 main chartered office in this state prior to becoming a branch of
5 such state-chartered or federally chartered bank;

6 (3) Capital stock financial institution means a capital
7 stock state building and loan association, a capital stock federal
8 savings and loan association, a capital stock federal savings bank,
9 and a capital stock state savings bank, which has a main chartered
10 office in this state, any branch thereof in this state, or any
11 branch in this state of a capital stock financial institution which
12 maintained a main chartered office in this state prior to becoming
13 a branch of such capital stock financial institution;

14 (4) Control means to own directly or indirectly or to
15 control in any manner twenty-five percent of the voting shares of
16 any bank, capital stock financial institution, or holding company
17 or to control in any manner the election of the majority of
18 directors of any bank, capital stock financial institution, or
19 holding company;

20 (5) Custodial official means an officer or an employee of
21 the State of Nebraska or any political subdivision who, by law, is
22 made custodian of or has control over public money or public funds
23 subject to the act or the security for the deposit of public money
24 or public funds subject to the act;

25 (6) Deposit guaranty bond means a bond underwritten by

1 an insurance company authorized to do business in this state which
2 provides coverage for deposits of a governing authority which are
3 in excess of the amounts insured or guaranteed by the Federal
4 Deposit Insurance Corporation;

5 (7) Event of default means the issuance of an order
6 by a supervisory authority or a receiver which restrains a bank,
7 capital stock financial institution, or qualifying mutual financial
8 institution from paying its deposit liabilities;

9 (8) Governing authority means the official, or the
10 governing board, council, or other body or group of officials,
11 authorized to designate a bank, capital stock financial
12 institution, or qualifying mutual financial institution as a
13 depository of public money or public funds subject to the act;

14 (9) Governmental unit means the State of Nebraska or any
15 political subdivision thereof;

16 (10) Qualifying mutual financial institution shall have
17 the same meaning as in section 77-2365.01;

18 (11) Repurchase agreement means an agreement to purchase
19 securities by the governing authority by which the counterparty
20 bank, capital stock financial institution, or qualifying mutual
21 financial institution will repurchase the securities on or before
22 a specified date and for a specified amount and the counterparty
23 bank, capital stock financial institution, or qualifying mutual
24 financial institution will deliver the underlying securities
25 to the governing authority by book entry, physical delivery,

1 or third-party custodial agreement. The transfer of underlying
2 securities to the counterparty bank's, capital stock financial
3 institution's, or qualifying mutual financial institution's
4 customer book entry account may be used for book entry delivery if
5 the governing authority so chooses; and

6 (12) Securities means:

7 (a) Bonds or obligations fully and unconditionally
8 guaranteed both as to principal and interest by the United States
9 Government;

10 (b) United States Government notes, certificates of
11 indebtedness, or treasury bills of any issue;

12 (c) United States Government bonds;

13 (d) United States Government guaranteed bonds or notes;

14 (e) Bonds or notes of United States Government agencies;

15 (f) Bonds of any state or political subdivision which are
16 fully defeased as to principal and interest by any combination of
17 bonds or notes authorized in subdivision (c), (d), or (e) of this
18 subdivision;

19 (g) Bonds or obligations, including mortgage-backed
20 obligations, issued by the Federal Home Loan Mortgage Corporation,
21 the federal farm credit system, a Federal Home Loan Bank, or the
22 Federal National Mortgage Association;

23 (h) Repurchase agreements the subject securities of which
24 are any of the securities described in subdivisions (a) through (g)
25 of this subdivision;

1 (i) Securities issued under the authority of the Federal
2 Farm Loan Act;

3 (j) Loan participations which carry the guarantee of
4 the Commodity Credit Corporation, an instrumentality of the United
5 States Department of Agriculture;

6 (k) Guaranty agreements of the Small Business
7 Administration of the United States Government;

8 (l) Bonds or obligations of any county, city, village,
9 metropolitan utilities district, public power and irrigation
10 district, sewer district, fire protection district, rural water
11 district, or school district in this state which have been issued
12 as required by law;

13 (m) Bonds of the State of Nebraska or of any other state
14 which are purchased by the Board of Educational Lands and Funds of
15 this state for investment in the permanent school fund or which
16 are purchased by the state investment officer of this state for
17 investment in the permanent school fund;

18 (n) Bonds or obligations of another state, or a political
19 subdivision of another state, which are rated within the two
20 highest classifications of prime by at least one of the standard
21 rating services;

22 (o) Warrants of the State of Nebraska;

23 (p) Warrants of any county, city, village, local hospital
24 district, or school district in this state;

25 (q) Irrevocable, nontransferable, unconditional standby

1 letters of credit issued by the Federal Home Loan Bank of Topeka;
2 and

3 (r) Certificates of deposit fully insured or guaranteed
4 by the Federal Deposit Insurance Corporation that are issued to
5 a bank, capital stock financial institution, or qualifying mutual
6 financial institution furnishing securities pursuant to the Public
7 Funds Deposit Security Act.

8 Sec. 23. Section 77-2388, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-2388 Any bank, capital stock financial institution, or
11 qualifying mutual financial institution subject to a requirement
12 by law to secure the deposit of public money or public funds in
13 excess of the amount insured or guaranteed by the Federal Deposit
14 Insurance Corporation may give security by furnishing securities
15 or providing a deposit guaranty bond pursuant to the Public Funds
16 Deposit Security Act in satisfaction of the requirement.

17 Sec. 24. Section 77-2389, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 77-2389 A bank, capital stock financial institution,
20 or qualifying mutual financial institution furnishes securities
21 pursuant to the Public Funds Deposit Security Act if it (1)
22 deposits securities held by the bank, capital stock financial
23 institution, or qualifying mutual financial institution, (2)
24 pledges or grants a security interest in securities held by the
25 bank, capital stock financial institution, or qualifying mutual

1 financial institution as provided in the act, or (3) effects the
2 assignment to the custodial official of a certificate of deposit
3 fully insured or guaranteed by the Federal Deposit Insurance
4 Corporation that is issued to the bank, capital stock financial
5 institution, or qualifying mutual financial institution.

6 Sec. 25. Section 77-2395, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2395 (1) If a bank, capital stock financial
9 institution, or qualifying mutual financial institution designated
10 as a depository furnishes securities pursuant to section 77-2389,
11 the custodial official shall not have on deposit in such depository
12 any public money or public funds in excess of the amount insured
13 or guaranteed by the Federal Deposit Insurance Corporation, unless
14 and until the depository has furnished to the custodial official
15 securities, the market value of which are in an amount not less
16 than one hundred two percent of the amount on deposit which is in
17 excess of the amount so insured or guaranteed.

18 (2) If a bank, capital stock financial institution, or
19 qualifying mutual financial institution designated as a depository
20 furnishes securities pursuant to subsection (1) of section 77-2398,
21 the custodial official shall not have on deposit in such depository
22 any public money or public funds in excess of the amount insured
23 or guaranteed by the Federal Deposit Insurance Corporation, unless
24 and until the depository has furnished to the custodial official
25 securities, the market value of which are in an amount not less

1 than one hundred five percent of the amount on deposit which is in
2 excess of the amount so insured or guaranteed.

3 (3) If a bank, capital stock financial institution, or
4 qualifying mutual financial institution designated as a depository
5 provides a deposit guaranty bond pursuant to the act, the custodial
6 official shall not have on deposit in such depository any public
7 money or public funds in excess of the amount insured or guaranteed
8 by the Federal Deposit Insurance Corporation, unless and until
9 the depository has provided to the custodial official a deposit
10 guaranty bond in an amount not less than the amount on deposit
11 which is in excess of the amount so insured or guaranteed.

12 Sec. 26. Section 77-2398, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 77-2398 (1) As an alternative to the requirements to
15 secure the deposit of public money or public funds in excess of
16 the amount insured or guaranteed by the Federal Deposit Insurance
17 Corporation pursuant to sections 77-2389 and 77-2394, a bank,
18 capital stock financial institution, or qualifying mutual financial
19 institution designated as a public depository may secure the
20 deposits of one or more governmental units by providing a deposit
21 guaranty bond or by depositing, pledging, or granting a security
22 interest in a single pool of securities to secure the repayment
23 of all public money or public funds deposited in the bank,
24 capital stock financial institution, or qualifying mutual financial
25 institution by such governmental units and not otherwise secured

1 pursuant to law, if at all times the total value of the deposit
2 guaranty bond is at least equal to the amount on deposit which is
3 in excess of the amount so insured or guaranteed or the aggregate
4 market value of the pool of securities so deposited, pledged, or
5 in which a security interest is granted is at least equal to one
6 hundred five percent of the amount on deposit which is in excess of
7 the amount so insured or guaranteed. Each such bank, capital stock
8 financial institution, or qualifying mutual financial institution
9 shall carry on its accounting records at all times a general ledger
10 or other appropriate account of the total amount of all public
11 money or public funds to be secured by a deposit guaranty bond or
12 by the pool of securities, as determined at the opening of business
13 each day, and the total value of the deposit guaranty bond or
14 the aggregate market value of the pool of securities deposited,
15 pledged, or in which a security interest is granted to secure such
16 public money or public funds.

17 (2) Only the securities listed in subdivision (12) of
18 section 77-2387 may be provided and accepted as security for the
19 deposit of public money or public funds and shall be eligible as
20 collateral. The qualified trustee shall accept no security which is
21 not listed in subdivision (12) of section 77-2387.

22 Sec. 27. Section 77-23,100, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-23,100 (1) Any bank, capital stock financial
25 institution, or qualifying mutual financial institution in which

1 public money or public funds have been deposited which satisfies
2 its requirement to secure the deposit of public money or public
3 funds in excess of the amount insured or guaranteed by the
4 Federal Deposit Insurance Corporation by the deposit, pledge, or
5 granting of a security interest in a single pool of securities
6 shall designate a qualified trustee and place with the trustee
7 for holding the securities so deposited, pledged, or in which a
8 security interest has been granted pursuant to subsection (1) of
9 section 77-2398. The bank, capital stock financial institution, or
10 qualifying mutual financial institution shall give written notice
11 of the designation of the qualified trustee to any custodial
12 official depositing public money or public funds for which such
13 securities are deposited, pledged, or in which a security interest
14 has been granted, and if an affiliate of the bank, capital stock
15 financial institution, or qualifying mutual financial institution
16 is to serve as the qualified trustee, the notice shall disclose
17 the affiliate relationship and shall be given prior to designation
18 of the qualified trustee. The custodial official shall accept the
19 written receipt of the trustee describing the pool of securities
20 so deposited, pledged, or in which a security interest has been
21 granted by the bank, capital stock financial institution, or
22 qualifying mutual financial institution, a copy of which shall also
23 be delivered to the bank, capital stock financial institution, or
24 qualifying mutual financial institution.

25 (2) Any bank, capital stock financial institution,

1 or qualifying mutual financial institution which satisfies its
2 requirement to secure the deposit of public money or public funds
3 in excess of the amount insured or guaranteed by the Federal
4 Deposit Insurance Corporation under the Public Funds Deposit
5 Security Act by providing a deposit guaranty bond pursuant to the
6 provisions of subsection (1) of section 77-2398 shall designate a
7 qualified trustee and cause to be issued a deposit guaranty bond
8 which runs to the qualified trustee and which is conditioned that
9 the bank, capital stock financial institution, or qualifying mutual
10 financial institution shall render to the qualified trustee the
11 statement required under subsection (3) of this section.

12 (3) Each bank, capital stock financial institution,
13 or qualifying mutual financial institution which satisfies its
14 requirement to secure the deposit of public money or public funds
15 in excess of the amount insured or guaranteed by the Federal
16 Deposit Insurance Corporation by providing a deposit guaranty bond
17 or by depositing, pledging, or granting a security interest in a
18 single pool of securities shall, on or before the tenth day of
19 each month, render to the qualified trustee a statement showing as
20 of the last business day of the previous month (a) the amount of
21 public money or public funds deposited in such bank, capital stock
22 financial institution, or qualifying mutual financial institution
23 that is not insured or guaranteed by the Federal Deposit Insurance
24 Corporation (i) by each custodial official separately and (ii) by
25 all custodial officials in the aggregate and (b) the total value of

1 the deposit guaranty bond or the aggregate market value of the pool
2 of securities deposited, pledged, or in which a security interest
3 has been granted pursuant to subsection (1) of section 77-2398. Any
4 qualified trustee shall be authorized, acting for the benefit of
5 custodial officials, to take any and all actions necessary to take
6 title to or to effect a first perfected security interest in the
7 securities deposited, pledged, or in which a security interest is
8 granted.

9 (4) Within ten days after receiving the statement
10 required under subsection (3) of this section from a bank,
11 capital stock financial institution, or qualifying mutual financial
12 institution, the qualified trustee shall provide a report to each
13 custodial official listed in such statement reflecting (a) the
14 amount of public money or public funds deposited in such bank,
15 capital stock financial institution, or qualifying mutual financial
16 institution by each custodial official as of the last business day
17 of the previous month that is not insured or guaranteed by the
18 Federal Deposit Insurance Corporation and that is secured pursuant
19 to subsection (1) of section 77-2398 and (b) the total value of the
20 deposit guaranty bond or the aggregate market value of the pool of
21 securities deposited, pledged, or in which a security interest is
22 granted pursuant to subsection (1) of section 77-2398 as of the
23 last business day of the previous month. The report shall clearly
24 notify the custodial official if the value of the securities
25 deposited does not meet the statutory requirement.

1 Sec. 28. Section 77-23,101, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-23,101 Any Federal Reserve Bank, branch of a Federal
4 Reserve Bank, a federal home loan bank, or another responsible
5 bank which is authorized to exercise trust powers, capital stock
6 financial institution which is authorized to exercise trust powers,
7 qualifying mutual financial institution which is authorized to
8 exercise trust powers, or trust company, other than the pledgor
9 or the bank, capital stock financial institution, or qualifying
10 mutual financial institution providing the deposit guaranty bond or
11 granting the security interest, is qualified to act as a qualified
12 trustee for the receipt of a deposit guaranty bond or the holding
13 of securities under section 77-23,100. The bank, capital stock
14 financial institution, or qualifying mutual financial institution
15 in which public money or public funds are deposited may at any
16 time substitute, exchange, or release securities deposited with a
17 qualified trustee if such substitution, exchange, or release does
18 not reduce the aggregate market value of the pool of securities to
19 an amount that is less than one hundred five percent of the total
20 amount of public money or public funds less the portion of such
21 public money or public funds insured or guaranteed by the Federal
22 Deposit Insurance Corporation. The bank, capital stock financial
23 institution, or qualifying mutual financial institution in which
24 public money or public funds are deposited may at any time reduce
25 the amount of the deposit guaranty bond if the reduction does not

1 reduce the value of the deposit guaranty bond to an amount less
2 than the total amount of public money or public funds less the
3 portion of such public money or public funds insured or guaranteed
4 by the Federal Deposit Insurance Corporation.

5 Sec. 29. Section 77-23,102, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-23,102 (1) If a bank, capital stock financial
8 institution, or qualifying mutual financial institution experiences
9 an event of default the qualified trustee shall proceed in the
10 following manner: (a) The qualified trustee shall ascertain the
11 aggregate amounts of public money or public funds secured pursuant
12 to subsection (1) of section 77-2398 and deposited in the bank,
13 capital stock financial institution, or qualifying mutual financial
14 institution which has defaulted, as disclosed by the records of
15 such bank, capital stock financial institution, or qualifying
16 mutual financial institution. The qualified trustee shall determine
17 for each custodial official for whom public money or public funds
18 are deposited in the defaulting bank, capital stock financial
19 institution, or qualifying mutual financial institution the
20 accounts and amount of federal deposit insurance that is available
21 for each account. It shall then determine for each such custodial
22 official the amount of public money or public funds not insured
23 or guaranteed by the Federal Deposit Insurance Corporation and the
24 amount of the deposit guaranty bond or pool of securities pledged,
25 deposited, or in which a security interest has been granted to

1 secure such public money or public funds. Upon completion of this
2 analysis, the qualified trustee shall provide each such custodial
3 official with a statement that reports the amount of public
4 money or public funds deposited by the custodial official in the
5 defaulting bank, capital stock financial institution, or qualifying
6 mutual financial institution, the amount of public money or public
7 funds that may be insured or guaranteed by the Federal Deposit
8 Insurance Corporation, and the amount of public money or public
9 funds secured by a deposit guaranty bond or secured by a pool of
10 securities pursuant to subsection (1) of section 77-2398. Each
11 such custodial official shall verify this information from his or
12 her records within ten business days after receiving the report
13 and information from the qualified trustee; and (b) upon receipt
14 of a verified report from such custodial official and if the
15 defaulting bank, capital stock financial institution, or qualifying
16 mutual financial institution is to be liquidated or if for any
17 other reason the qualified trustee determines that public money or
18 public funds are not likely to be promptly paid upon demand, the
19 qualified trustee shall proceed to enforce the deposit guaranty
20 bond or liquidate the pool of securities held to secure the deposit
21 of public money or public funds and shall repay each custodial
22 official for the public money or public funds not insured or
23 guaranteed by the Federal Deposit Insurance Corporation deposited
24 in the bank, capital stock financial institution, or qualifying
25 mutual financial institution by the custodial official. In the

1 event that the amount of the deposit guaranty bond or the proceeds
2 of the securities held by the qualified trustee after liquidation
3 is insufficient to cover all public money or public funds not
4 insured or guaranteed by the Federal Deposit Insurance Corporation
5 for all custodial officials for whom the qualified trustee serves,
6 the qualified trustee shall pay out to each custodial official
7 available amounts pro rata in accordance with the respective public
8 money or public funds not insured or guaranteed by the Federal
9 Deposit Insurance Corporation for each such custodial official.

10 (2) In the event that a federal deposit insurance agency
11 is appointed and acts as a liquidator or receiver of any bank,
12 capital stock financial institution, or qualifying mutual financial
13 institution under state or federal law, those duties under this
14 section that are specified to be performed by the qualified trustee
15 in the event of default may be delegated to and performed by such
16 federal deposit insurance agency.

17 Sec. 30. Section 77-23,105, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 77-23,105 Upon request of a custodial official, a bank,
20 capital stock financial institution, or qualifying mutual financial
21 institution shall report as of the date of such request the
22 amount of public money or public funds deposited in such bank,
23 capital stock financial institution, or qualifying mutual financial
24 institution that is not insured or guaranteed by the Federal
25 Deposit Insurance Corporation (1) by the custodial official making

1 the request and (2) by all other custodial officials and secured
2 pursuant to subsection (1) of section 77-2398, and the total
3 value of the deposit guaranty bond or the aggregate market value
4 of the pool of securities deposited, pledged, or in which a
5 security interest has been granted to secure public money or public
6 funds held by the bank, capital stock financial institution, or
7 qualifying mutual financial institution, including those deposited
8 by the custodial official. Upon request of a custodial official, a
9 qualified trustee shall report as of the date of such request the
10 total value of the deposit guaranty bond or the aggregate market
11 value of the pool of securities deposited, pledged, or in which
12 a security interest has been granted by the bank, capital stock
13 financial institution, or qualifying mutual financial institution
14 and shall provide an itemized list of the securities in the pool.
15 Such reports shall be made on or before the date the custodial
16 official specifies.

17 Sec. 31. The Revisor of Statutes shall assign section 21
18 of this act to Chapter 77, article 23.

19 Sec. 32. Original sections 2-4214, 14-556, 15-847,
20 15-849, 16-713, 16-715, 17-607, 17-720, 77-2305, 77-2318,
21 77-2326.04, 77-2340, 77-2344, 77-2345, 77-2352, 77-2355, 77-2362,
22 77-2375, 77-2385, 77-2388, 77-2389, 77-2395, 77-2398, 77-23,100,
23 77-23,101, 77-23,102, and 77-23,105, Reissue Revised Statutes of
24 Nebraska, and sections 77-2365.02 and 77-2387, Revised Statutes
25 Cumulative Supplement, 2008, are repealed.

1 Sec. 33. Since an emergency exists, this act takes effect
2 when passed and approved according to law.